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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/021,410      | 02/10/1998  | RUDOLF RIGLER        | P58841US1           | 4419             |

7590

06/04/2002

JACOBSON PRICE HOLMAN AND STERN  
THE JENIFER BUILDING  
400 SEVENTH STREET N W  
WASHINGTON, DC 20004

EXAMINER

CHIN, CHRISTOPHER L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1641

DATE MAILED: 06/04/2002

25

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/021,410

Applicant(s)  
Rigler et al

Examiner  
Chris Chin

Art Unit  
1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 13, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 119-242 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 119-154, 157-161, 163-169, 173-179, 186, 187, 201-207, 211-217, 2 is/are allowed.
- 6) ☒ Claim(s) 155-156, 162, 170-172, 180-185, 188-200, 208-210-218-223, 226, & 228 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Claim Rejections - 35 U.S.C. § 112***

1. Claims 155-156, 162, 170-172, 180-185, 188-200, 208-210, 218-223, 226, and 229-232 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 155 and 156 are vague and indefinite. The recitation of “(lens, filter, mirror, detector)” in part (j) of each claim is not clear if its meant to limit the “optical elements” to those listed in the parenthesis or not.

Claims 162 and 200 are vague as to what is considered a “computer assisted way”.

Claims 170-172, 185, 188, 208-210, 223, and 226 are vague in reciting “use” claims which do not further limit the claimed device.

Claims 180-184, 189-199, 218-222, and 229-232 are vague and indefinite as it is not clear as to how these additional components are structurally related to the components recited in the device of claim 119 or any intervening claims.

### ***Allowable Subject Matter***

2. Claims 119-154, 157-161, 163-169, 173-179, 186-187, 201-207, 211-217, 224-225, 227-228, and 233-242 are allowed.

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3. Claims 155-156, 162, 170-172, 180-185, 188-200, 208-210, 218-223, 226, and 229-232 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### *Conclusion*

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Chin whose telephone number is 308-3991. The examiner can

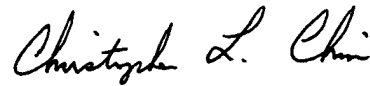
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normally be reached on Monday-Thursday from 9:30 am to 7:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached on (703) 305-3399. The fax phone number for the organization where this application or proceeding is assigned is 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0196.

cchin/cc  
June 2, 2002



CHRISTOPHER L. CHIN  
PRIMARY EXAMINER  
GROUP 1800-1641